IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

Crl.MC.No. 524 of 2007()

CP.40/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT-III, PALAKKAD

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PETITIONER: 4TH ACCUSED:

DR. ANJANEYAN, AGED 66 YEARS,
S/O. RMACHANDRAN, DOOR NO.72, SUBRAMANIAM ROAD,
RATNASABHAPATHI PURAM, COIMBATORE, TAMILNADU.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT:

STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE, MALAMPUZHA POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 524 of 2007

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Dated this the 28th day of February, 2007

O R D E R

The petitioner, a medical practitioner, faces indictment for offences punishable, inter alia, under Section 313 r/w. 34 I.P.C. He is the 4th accused. Allegations are raised against the accused persons of offences triable exclusively by a Court of Sessions. Investigation is complete. Final report has already been filed. C.P. 40 of 2006 has been registered before the learned J.F.C.M. - III, Palakkad. The petitioner has not entered appearance so far. According to him, he was not available in India. He was abroad. He has come to know of the pendency of the proceedings and now wants to surrender before the learned Magistrate. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail.

2. I find no merit in the prayer of the petitioner. It is certainly for the petitioner to appear before the learned Magistrate and

explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned counsel for the petitioner airs an apprehension that merely because the case is triable by a Court of Sessions, the learned Magistrate may not consider the application for bail on merits. It is by now trite that the mere fact the case is triable by a Court of Sessions is by itself not a reason for the learned Magistrate to abdicate his responsibility to consider an application for bail on merits. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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